

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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UNITED STATES OF AMERICA,

-v-

MOISES POLANCO-GONZALEZ,

Defendant.

17-CR-688 (VM)

ORDER

Victor Marrero, District Judge:

On June 9, 2022, Defendant Moises Polanco-Gonzalez was sentenced principally to a term of imprisonment of 94 months.

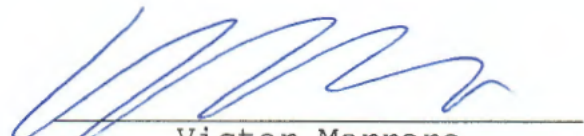
On January 4, 2024, Polanco-Gonzalez filed a motion (see Dkt. No. 40 [hereinafter “Motion for Appointment of Counsel”]), seeking appointment of counsel to determine whether he is eligible for a sentence reduction pursuant to the Sentencing Guidelines amendments, which went into effect on November 1, 2023, and apply retroactively. The Court denied the Motion for Appointment of Counsel on January 23, 2024, concluding that “it is readily ascertainable from the record that Polanco-Gonzalez was ineligible for a reduction in sentence.” (Dkt. No. 42 (alterations omitted) (quoting United States v. Cirineo, 372 F. App’x 178, 179 (2d Cir. 2010 (summary order).) See also United States v. Reddick, 53 F.3d 462, 465-65 (2d Cir. 1995) (holding that there is no statutory right to counsel for a sentence reduction motion under the Criminal Justice Act); United States v. Broadnax, No. 15 Cr. 878, 2023 WL 6533489, at *1 (S.D.N.Y. Oct. 6, 2023) (“In criminal matters, the right to appoint counsel extends to the first appeal of right,” after which “it is within the district court’s discretion whether to appoint counsel.” (quotation marks and citation omitted)).

On March 8, 2024, Polanco-Gonzalez filed a motion requesting that the Court consider a sentence reduction pursuant to Amendment 821 of the Sentencing Guidelines and renewing his request for appointment of counsel. (See Dkt. No. 43 [hereinafter “Motion for Sentence Reduction”].) The United States Probation Department has issued a report indicating that Polanco-Gonzalez is not eligible for a sentence reduction. (See Dkt. No. 41.) The Court has considered the record in this case and Polanco-Gonzalez’s submission on the Motion for Sentence Reduction.

It is hereby **ORDERED** that Polanco-Gonzalez is ineligible for this reduction because he did not have zero criminal history points at the time of his conviction, even prior to the enhancement for committing the instant offense under a criminal justice sentence. Accordingly, the Court **DENIES** Polanco-Gonzalez’s request of a reduction of sentence. Because Polanco-Gonzalez is ineligible for a sentence reduction, the Court also **DENIES** Polanco-Gonzalez’s renewed request for appointment of counsel. See Cirineo, 372 F. at 179.

The Clerk of Court is respectfully directed to terminate the motion at Dkt. No. 43. The Clerk of Court is also respectfully directed to mail a copy of this Order to Moises Polanco-Gonzalez, Register Number 30532-509, FCI Loretto, PO Box 1000, Cresson, PA 16630, and note service on the docket.

SO ORDERED.



Victor Marrero
U.S.D.J.

Dated: 11 March 8, 2024
New York, New York